

3662

PATENT
TER2000-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Ronald J. Kane et al.

Examiner: Gregory, B. E.

Serial No.: 09/770,237

Group Art Unit: 3662

Title: **BODY MOTION
TRACKING SYSTEM**

Filed: 26 January 2001

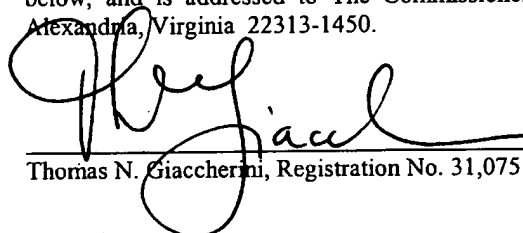
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CERTIFICATE OF MAILING UNDER 37 CFR 1.8

The undersigned hereby certifies that this document is being transmitted to the United States Patent Office by First Class Mail with adequate postage in accordance with the provisions of 37 CFR Section 1.8 on the date subscribed to below, and is addressed to The Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.


Thomas N. Giaccherini, Registration No. 31,075

Date 14 Nov 03.

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

The Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Applicants received the attached Notice of Non-Compliant Amendment dated 14 October 2003 after filing a First Amendment for the Present Application.

The Attorney of Record conferred with both Examiner Gregory, and with Supervisor Shana Ross at 703.306.4189. The Attorney of Record respectfully submits that the Notice of Non-Compliant Amendment is incorrect, and that the previously submitted First Amendment is in complete compliance with Patent Office Rules.

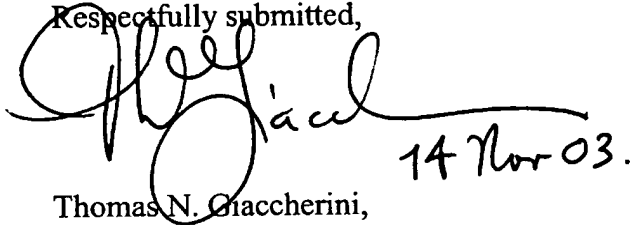
Response to Non-Compliant Amendment
for USSN 09/770,237
14 November 2003

Page Two

During a phone conversation with Ms. Ross, the Attorney of Record was told to ignore the Notice of Non-Compliant Amendment, and that the First Amendment would be forwarded to Examiner Gregory.

The Attorney of Record has submitted this Response to insure that the Present Application does not become abandoned, and that the Examiner will have an opportunity to enter the First Amendment and pass the Present Application to issue as soon as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Giaccherini', followed by a horizontal line and the date '14 Nov 03.'.

Thomas N. Giaccherini,
Registration No. 31,075
Attorney for Applicants

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Transmitted to the Patent Office with a Rule 8 Certificate
of Mailing on 14 November 2003.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,237	01/26/2001	Ronald J. Kane	TER2000-1	6796

7590 10/14/2003
Thomas N. Giaccherini
Anglin & Giaccherini
Post Office Box 1146
Carmel Valley, CA 93924

EXAMINER

GREGORY, BERNARR E

ART UNIT PAPER NUMBER

3662

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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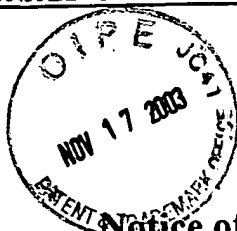
10 Nov 03
Jheg

- Called
Ex-Gregory:
He agrees
Amendment
complies with
PTO Rules.
- Called
A Baltimore
left msg, no response
- Called
Supervisor Shanda
Koss, she will obtain
file
- Shanda Koss called me:
Ignore Notice, Amend complies.
will forward to EXR.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov



Paper No. 8

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 9/30/03 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: Canceled claims must be included.

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No, new rules specifically state canceled claim text MUST NOT be presented.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Regina D. Blett
Legal Instruments Examiner (LIE)

July 22, 2003 (rev.)

Baltimore

Super Shanda Ross
703 306 4189

**REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED
COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003**

All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 Fed. Reg. 38611 (June 30, 2003)), posted on the Office's website at: <http://www.uspto.gov/web/patents/ifw/> with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. **NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003).** The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period.

Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.

Note: The amendment practice for reissues and reexamination proceedings, except for drawings, has not changed.

REVISED AMENDMENT PRACTICE

I. Begin each section of an amendment document on a separate sheet:

Each section of an amendment document (e.g., Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

II. Two versions of amended part(s) no longer required:

37 CFR 1.121 has been revised to **no longer require** two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for **substitute specifications** under 37 CFR 1.125 have been retained.

A) Amendments to the claims:

Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, **must include a complete listing** of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and the **text of each pending claim** (with markings to show **current** changes) must be presented. The claims in the listing will replace all prior claims in the application.

- (1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), **(previously presented) and (not entered)**. The text of all pending claims, **including withdrawn claims**, must be submitted each time any claim is amended. Canceled **and not entered** claims must be indicated by only the claim number and status, without presenting the text of the claims.
- (2) The text of all claims **being currently amended** must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for **deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]).** **As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., ~~number 4~~ as number 14 as).** An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.
- (3) The text of pending claims **not being currently amended, including withdrawn claims**, must be presented in the claim listing in clean version, i.e., without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.

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